

Title 126 - NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

Chapter 18 - RELEASES OF OIL OR HAZARDOUS SUBSTANCES

001 Antidegradation.

001.01 No person shall release, cause to be released or allow the release of an oil or hazardous substance or residuary products thereof, into, or upon the waters or land of the state, except in quantities, and at times and locations, or under circumstances and conditions as the Department approves.

002 Release Notification Requirements.

002.01 It shall be the duty of any responsible person to notify the Department of any release or suspected release of an oil or hazardous substance, in the following manner:

002.01A Immediate notification is required regardless of the quantity of an oil or hazardous substance release which occurs beneath the surface of the land or impacts or threatens waters of the state or threatens the public health and welfare.

002.01B Immediate notification is required of a release upon the surface of the land of an oil in a quantity that exceeds 25 gallons, or of a hazardous substance which equals or exceeds 100 pounds or its reportable quantity under Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended (40 CFR Part 302) and Section 329(3) of the Emergency Planning and Community Right-to-Know Act of 1986 (40 CFR Part 355), whichever is less.

002.01B1 Notification is not required for a release under this subsection if either of the following conditions are met:

002.01B1a The release is confined and expected to stay confined within a building or otherwise wholly enclosed structure, owned by the responsible party, in which the floors and walls are of non-earthen materials

which are adequately impervious to the released substance(s) and is cleaned up within 24 hours of its discovery, or
002.01B1b The release is in compliance with conditions established in State statutes, regulations or permits.

002.01C Notification is not required for any release upon the surface of the land of oil or hazardous substance that does not exceed the reportable quantities in 002.01B above and which will not constitute a threat to public health and welfare, the environment, or a threat of entering the waters of the state and provided that the release is cleaned up.
002.01D The Department retains full authority to require further actions of the responsible party although the release or suspected release is not reportable under the above subsections.

002.02 Notification shall be made by telephone to the Department during office hours, from 8:00 a.m. to 5:00 p.m. Monday through Friday. After hours and holidays, reports shall be made to the Nebraska State Patrol. All information known about the release at the time of discovery is to be included, such as time of occurrence, quantity and type of material, location and any corrective or cleanup actions presently being taken.

002.03 After notification of the release has been made to the Department, the Department may require interim reports until any required remedial action has been completed.

002.04 The Department may require a written final report for all releases of an oil or hazardous substance within 15 days after remedial action has been completed, or, if no remedial action occurs, within 15 days of the release, or in such other reasonable time period as the Department shall determine. These reports shall contain, at a minimum, the following information:

002.04A Date, time and duration of the release;

002.04B Location of release;

002.04C Person or persons causing and responsible for the release;

002.04D Type and amount of oil or hazardous substance released;

002.04E Cause of the release;

002.04F Environmental damage caused by the release;
002.04G Actions taken to respond, contain and clean up the release;
002.04H Location and method of ultimate disposal of the oil or hazardous substance and other contaminated materials;
002.04I Actions being taken to prevent a reoccurrence of the release;
002.04J Any known or anticipated acute or chronic health risks associated with the release; and
002.04K When appropriate, advice regarding medical attention necessary for exposed individuals.

002.05 Compliance with the reporting requirements of the Department does not relieve the responsible person from reporting requirements of other government agencies, either State or Federal.

003 Containment.

003.01 Whenever an oil or hazardous substance is released, it shall be the duty of the responsible person to take or cause to be taken, within 24 hours, all necessary steps to stop the release and contain all released material.

003.02 As soon as the release has been stopped and contained, the responsible person shall take action to preclude continued or future releases.

004 Investigation.

004.01 When a release occurs, it shall be the duty of the responsible person to determine all of the affected environment and to provide other pertinent information deemed necessary by the Department to fully assess the impacts of the release, including but not limited to the names and addresses of adjacent landowners and existing water users. The release investigation shall be conducted in a timely and diligent manner and in accordance with a schedule established by the Department.

004.02 The Department may request written responses to questions regarding releases and suspected releases from the responsible person or other persons whom the Department has reason to believe have pertinent information necessary to verify the release or determine its extent or impact or verify the identity of the responsible person.

005 Remedial Action

005.01 At any time after notification of a release, the Department may require the responsible person to develop and submit a written remedial action plan in accordance to a schedule and format established by the Department.

005.02 The remedial action plan is subject to the Department's review and approval.

005.03 Upon approval of the remedial action plan or as directed by the Department, the responsible person shall implement the plan and any modifications pursuant to a schedule and in a format established by the Department.

005.04 Remedial action of an oil or hazardous substance release shall

proceed in a timely and diligent manner and in accordance with a schedule established by the Department. Actions such as, but not limited to, environmental monitoring and limiting public access may be included as remedial action responsibilities.

005.05 Cleanup shall be to the extent which will prevent a hazard to human health, safety, and the land and waters of the state. Remedial action for ground water shall be performed pursuant to the requirements in Appendix A of Title 118 - Ground Water Quality Standards and Use Classification.

006 Disposal.

006.01 Wastes generated from the cleanup of an oil or hazardous substance release, if determined to be hazardous wastes, shall be disposed of in accordance with Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska.

006.01A Wastes generated from a cleanup action, that are not specifically covered by Title 128 - Rules and Regulations Governing Hazardous Waste Management in Nebraska, shall be disposed of as determined by the Department in accordance with the Departmental Rules and Regulations.

006.01B All disposal actions shall require prior approval by the Department.

007 Responsible Person Unwilling or Unknown.

007.01 In the event of an oil or hazardous substance release or suspected release in which the responsible person is unwilling to carry out Sections 004 or 005 of this Chapter, or the responsible person is unknown, the Director may initiate, by what resources may be available, remedial actions.

007.02 The Department may require investigations by potentially responsible persons. This may include testing of the potential sources and affected environment by methods approved by the Department.

008 Liabilities.

008.01 Compliance with the above sections does not relieve the responsible person from liabilities, damages or penalties resulting from the release, cleanup and disposal of an oil or hazardous substance. This may include the reimbursement for any losses of fish or wildlife pursuant to Neb. Rev. Stat. §81-1508(2)

Enabling Legislation: Neb. Rev. Stat. §§81-1505(14); 81-1506; 81-1507(4); 81-1508(2); 81-15,124.

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